

Application No. 10/736,811  
Response to Office Action

Customer No. 01933

R E M A R K S

Reconsideration of this application, as amended, is respectfully requested.

ALLOWABLE SUBJECT MATTER

The Examiner's indication of the allowability of the subject matter of claims 7-10 and 19-22 is respectfully acknowledged.

These claims, however, have not been rewritten in independent form at this time since, as set forth in detail hereinbelow, it is respectfully submitted that their respective parent claims, as amended, also recite allowable subject matter.

THE CLAIMS

Claims 1 and 13 have been amended to incorporate the subject matter of (now canceled) claims 5 and 17, respectively, and claims 1 and 13 have also been amended to positively recite a measuring object.

In addition, claims 1, 2, 4, 6-14, 16 and 18-22 have been amended to make some minor grammatical improvements and to correct some minor antecedent basis problems so as to put the claims in better form for issuance in a U.S. patent.

Still further, claims 4 and 6 have been amended to depend from claim 1, and claims 16 and 18 have been amended to depend

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from claim 13, to reflect the cancellation of claims 3, 5, 15 and 17. And claims 20-22 have been amended to correctly depend from claim 19.

No new matter has been added, and it is respectfully requested that the amendments to claims 1, 2, 4, 6-14, 16 and 18-22 be approved and entered.

#### THE PRIOR ART REJECTION

Claims 1-4, 11-16 and 23 were rejected under 35 USC 102 as being anticipated by the Agilent Technologies publication "Frequency Agile Jitter Measurement System," and claims 5, 6, 17 and 18 were rejected under 35 USC 103 as being obvious in view of the combination of the "Frequency Agile Jitter Measurement System" publication and the Agilent Technologies publication "Jitter Separation - 50 Mb/s to Over 40 Gb/s Using the Agilent 86100C Infiniium DCA-J" ("Jitter Separation").

On page 4 of the Office Action, the Examiner acknowledges that the "Frequency Agile Jitter Measurement System" publication does not disclose the features of the present invention recited in (now canceled) claims 5 and 17 (which are now recited in amended independent claims 1 and 13). For this reason, the Examiner has cited "Jitter Separation" publication to supply the missing teachings of the "Frequency Agile Jitter Measurement System" publication.

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It is respectfully pointed out, however, that the "Jitter Separation" publication has a publication date of December 9, 2003, which is after the December 17, 2002, filing date of JP 2002-365138, whose priority is claimed by the present application.

Submitted herewith is an accurate English translation of JP 2002-365138 to show that the claimed present invention is fully supported by the disclosure of JP 2002-365138, and that the claimed present invention is therefore entitled to the claimed priority date of December 17, 2002.

It is respectfully submitted, therefore, that the "Jitter Separation" publication is not a proper reference against the claimed present invention, and it is respectfully requested that the rejections in view of the "Jitter Separation" publication be withdrawn.

And since the Examiner has acknowledged that the features of the present invention now recited in amended independent claims 1 and 13 are not disclosed by the "Frequency Agile Jitter Measurement System" publication, it is respectfully submitted that the present invention as recited in amended independent claims 1 and 13, as well as claims 2, 4, 6-12, 14, 16 and 18-23 respectively depending therefrom, clearly patentably distinguishes over this publication under 35 USC 102 as well as under 35 USC 103.

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In view of the foregoing, entry of this Amendment, allowance of the claims and the passing of this application to issue are respectfully solicited.

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

Respectfully submitted,

/Douglas Holtz/

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